

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Fidia S.p.A.

Opposer,

v.

WhoWhatWare Company, L.L.C.

Applicant.

Opposition No. _____

Serial No.: 76/235,125

Mark : **FIDO**

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Assistant Commissioner for Trademarks, Box TTAB, 2900 Crystal Drive, Arlington, VA 22202-3513, on September 3rd, 2002.

By:

Name: John A. Clifford

NOTICE OF OPPOSITION

To The Assistant Commissioner for
Trademarks
ATTN: BOX TTAB
2900 Crystal Drive
Arlington, VA 22202-3513



09-09-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #61

02 SEP 16 PM 9:44

TRADEMARK TRIAL AND
APPEAL BOARD

Dear Sir:

Opposer, Fidias, S.p.A., a corporation duly organized and existing under the laws of Italy, with a mailing address Corso Lombardia 11, 10099 San Mauro Torinese, Torino, Italy, believes that it will be damaged by the registration of the mark shown in Application Serial No. 76/235,125 filed April 3, 2001 by Applicant, WhoWhatWare Company, L.L.C., with a mailing address of 3605 Hemlock Way, Reno, Nevada, 85909, and hereby opposes registration of the mark. The grounds for opposition are as follows:

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1. By application herein opposed, Applicant is seeking to obtain under the provisions of the Trademark Act of 1946 as amended, registration on the principal register of the Trademark FIDO for Software that analyzes databases, namely software that generates information about data structures and data semantics in International Class 9. The application is based on an intention to use the mark pursuant to section 1(b) of the Trademark Act. No Amendment to Allege Use has been filed.

2. Opposer is the owner of U.S. Trademark Registration No. 2,031,520, registered on January 21, 1997, for the mark FIDIA and design for a wide range of goods and services in classes 7, 9, 16, and 42. Opposer's goods as reflected in its registration include, among other things, computer hardware and software for numerical control machining tools and for numerical control of molds, tools, and dies, CAD/CAM computer hardware and software in International Class 9. Said registration has not been cancelled, is valid and incontestable, and is now in full force and effect. Furthermore, Opposer has sold its goods listed in its registration in interstate commerce for many years, under the mark FIDIA and has common law rights in and to the FIDIA mark.

3. Pursuant to 37 C.F.R. § 2.122(d), Opposer hereby pleads ownership of its registration and places two copies of the registration prepared and issued by the Patent and Trademark Office showing both the current status of and current title to the registration into evidence.

4. There is no issue of priority concerning application Serial No. 76/235,125 since Opposer's registration issued over four years before Applicant's filing date and Applicant asserts no date of first use for its mark.

5. Opposer's mark FIDIA, and its FIDIA and Design mark have been in use in interstate commerce, have been advertised and promoted by Opposer, and have developed and represents

valuable good will inuring to the benefit of Opposer. Opposer's mark has trademark significance to purchasers and potential purchasers.

6. Applicant's mark is confusingly similar to Opposer's mark. The marks are both derived from the same root, FID, and would seem to be two forms of the same word, confusingly similar in sight, sound, and/or meaning.

7. Opposer manufactures and sells a wide variety of CAD/CAM machines, tools, and software for the operation of the same. Such machines require and use software that analyzes databases, and software that generates information about data structures and data semantics. The goods listed in Applicant's application are closely related to, or competitive with Opposer's goods sold under the FIDIA mark.

8. Due to the similarity between Applicant's claimed mark, and Opposer's previously used and duly registered mark, and the closely related nature of the goods of the respective parties, consumers are likely to view Applicant's goods as Opposer's goods or a line extension of Opposer's goods marketed under the same mark.

9. The goods sold by Opposer are closely related to the goods to be sold by Applicant.

10. Opposer's and Applicant's goods may be sold in the same channels of trade to the same consumers or class of consumers.

11. Due to the similarity of Opposer's previously used and registered FIDIA and Design trademark with Applicant's FIDO trademark application and the closely related nature of the goods of the respective parties, customers and potential customers are likely to believe that Applicant's products originate from Opposer, resulting in a likelihood of confusion in the marketplace and damage to Opposer.

12. The use or registration by Applicant of the mark FIDO is likely to cause confusion or to cause mistake or deception in the wholesale and the retail trade, and among purchasers and potential purchasers, with Opposer's previously used mark FIDIA, again resulting in damage to Opposer.

13. Because of the related nature of the goods and the identical nature of the marks, use and registration of the mark FIDO by Applicant is likely to cause confusion, mistake, or deception that Applicant's goods are those of Opposer or are otherwise endorsed, sponsored, or approved for Opposer causing further damage to Opposer.

14. Registration of the mark shown in Application Serial No. 76/235,125 will result in damage to Opposer under the provisions of Section 2(a) and 2(d) of the U.S. Trademark Act, 15 U.S.C. Section 1052, pursuant to the allegations stated above.

WHEREFORE, Opposer asks that its opposition to this application be sustained and that the registration of the term FIDO set forth therein be refused. Please direct all correspondence to the attention of:

John A. Clifford
Merchant & Gould P.C.
PO Box 2910
Minneapolis, MN 55402
612/336-4616

Opposer hereby appoints Allen W. Hinderaker, Kristina M. Foudray; Brian H. Batzli, Reg. No. 32,960; John L. Beard, Reg. No. 27,612; Linda M. Byrne, Reg. No. 32,404; John A. Clifford, Reg. No. 30,247; Sandra Epp Ryan, 39,667; Gregory C. Golla; John D. Gould, Reg. No. 18,223; Curtis B. Hamre, Reg. No. 29,165; Scott W. Johnston, Reg. No. 39,721; D. Randall King; Anna W. Manville; and Paul A. Welter, Reg. No. 20,890 of Merchant & Gould P.C. as its attorneys with the full power to represent the Opposer in connection with this application.


Accompanying the duplicate signed copies of this Notice of Opposition is the required fee of \$300.00. Please charge any excess fees or credit any overpayment to Deposit Account No. 13-2725 of Opposer's counsel noted above.

Respectfully submitted,

Fidia S.p.A.

By its attorneys,

Dated: Sept 3, 2002


John A. Clifford
Kristina M. Foudray
MERCHANT & GOULD
PO Box 2910
Minneapolis, MN 55402
612/332-5300

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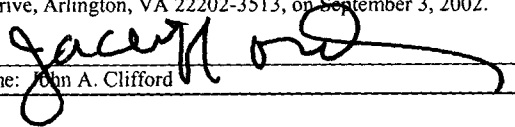
A Professional Corporation

Fidia S.p.A.)
Opposer,)
v.)
WhoWhatWhere Company, L.L.C.) Opposition No.
Applicant.)
)

Mark: FIDO
Serial No.: 76/235,125
Docket Number: 9728.78USTA
Official Gazette: June 4, 2002

Due Date: September 3, 2002
Filing Date: April 18, 2002

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Commissioner for Trademarks, Box TTAB, 2900 Crystal Drive, Arlington, VA 22202-3513, on September 3, 2002.

By: 
Name: John A. Clifford

Commissioner for Trademarks
Box TTAB
2900 Crystal Drive
Arlington, VA 22202-3513



Dear Commissioner:

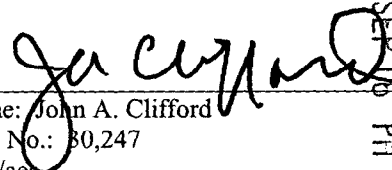
09-09-2002

We are transmitting herewith the attached:

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #61

- ☒ Return postcard.
- ☒ Transmittal Sheet in duplicate containing Certificate Under 37 C.F.R. 1.8
- ☒ Notice of Opposition (1 Original and 1 Copy)
- ☒ Check in the amount of \$300.00 to cover Filing Fee.

Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate copy of this sheet is enclosed.

By: 
Name: John A. Clifford
Reg. No.: 30,247
JAC/aes

13 SEP 16 PM 9:44
TRADEMARK TRIAL AND
APPEAL BOARD

(CONTESTED MATTER)



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THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office


July 17, 2002

THE ATTACHED U.S. TRADEMARK REGISTRATION 2,031,520 IS
CERTIFIED TO BE A TRUE COPY OF THE REGISTRATION ISSUED BY
THE UNITED STATES PATENT AND TRADEMARK OFFICE WHICH
REGISTRATION IS IN FULL FORCE AND EFFECT.

REGISTERED FOR A TERM OF 10 YEARS FROM *January 21, 1997*
SAID RECORDS SHOW TITLE TO BE IN: *Registrant*



By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS


P. SWAIN
Certifying Officer

Int. Cls.: 7, 9, 16 and 42

Prior U.S. Cls.: 2, 5, 13, 19, 21, 22, 23, 26, 29, 31,
34, 35, 36, 37, 38, 50, 100 and 101

Reg. No. 2,031,520

United States Patent and Trademark Office

Registered Jan. 21, 1997

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**



FIDIA S.P.A. (ITALY CORPORATION)
CORSO LOMBARDIA 11
10099 SAN MAURO TORINESE, TORINO,
ITALY

FOR: MILLING MACHINES FOR SUPERFICIAL WORKING WITH THREE OR MORE DEGREES OF FREEDOM, IN CLASS 7 (U.S. CLS. 13, 19, 21, 23, 31, 34 AND 35).

FOR: COMPUTER HARDWARE AND SOFTWARE FOR NUMERICAL CONTROL MACHINING TOOLS AND FOR NUMERICAL CONTROL OF MOLDS, TOOL AND DIES; CAD/CAM COMPUTER HARDWARE AND SOFTWARE, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FOR: INSTRUCTIONAL AND OPERATING MANUALS FOR MACHINES FOR MILLING, SCANNING AND MEASURING AND INSTRUCTIONAL AND OPERATING MANUALS FOR NUMERICAL CONTROL SYSTEM TO IM-

PROVE THE PRECISION OF ALL MACHINING OPERATIONS FOR MOLDS, MODEL, AND PROTOTYPES, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FOR: RESEARCH SERVICES IN THE FIELD OF NUMERICAL CONTROL SYSTEMS TO COMMAND MILLING MACHINES, SCANNING MACHINES, MEASURING MACHINES AND TO IMPROVE THE PRECISION OF ALL MACHINING OPERATION FOR MOLDS, MODELS AND PROTOTYPES, IN CLASS 42 (U.S. CLS. 100 AND 101).

OWNER OF ITALY REG. NO. 335 186, DATED 1-16-1978, EXPIRES 1-16-1998.

THE MARK IS STIPPLED TO INDICATE SHADING BUT IS NOT INTENDED TO INDICATE COLOR.

SER. NO. 74-662,433, FILED 4-18-1995.

WON TEAK OH, EXAMINING ATTORNEY